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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,621	08/07/2001	Karlheinz Hausmann	AD6745 US NA	2090

23906 7590 03/17/2005

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WILMINGTON, DE 19805

EXAMINER

AUGHENBAUGH, WALTER

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/923,621

Applicant(s)

HAUSMANN ET AL.

Examiner

Walter B Aughenbaugh

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): See continuation sheet.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-8 and 13.

Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

ADVISORY ACTION

Acknowledgement of Applicant's Amendments

1. The After Final Amendment filed February 16, 2005 (Amdt. E) has been received, considered and entered by Examiner.

WITHDRAWN REJECTIONS

Claim Rejections - 35 USC § 112

2. The 35 U.S.C. 112 rejection of claim 1 that was repeated in paragraph 8 of the previous Office Action mailed November 30, 2004 has been withdrawn due to Applicant's amendments in claim 1 in Amdt. E.

REPEATED REJECTIONS

Claim Rejections - 35 USC § 102

3. The 35 U.S.C. 102 rejection of claims 1 and 4 that was repeated in paragraph 9 of the previous Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record. In regard to the added recitation "a multilayer polymer film comprising", see paragraph 6 of the Office Action mailed April 9, 2004: the multilayer structure of Hekal is a multilayer polymer film.

4. The 35 U.S.C. 102 rejection of claim 13 made of record in paragraph 7 of the Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record.

Claim Rejections - 35 USC § 103

5. The 35 U.S.C. 103 rejection of claims 2, 4 and 6 that was repeated in paragraph 10 of the previous Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record.

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6. The 35 U.S.C. 103 rejection of claims 3 and 5 that was repeated in paragraph 11 of the previous Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record.

7. The 35 U.S.C. 103 rejection of claims 3, 5 and 7 that was repeated in paragraph 12 of the previous Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record.

8. The 35 U.S.C. 103 rejection of claim 8 that was repeated in paragraph 13 of the previous Office Action mailed November 30, 2004 has been repeated for the reasons previously made of record.

ANSWER TO APPLICANT'S ARGUMENTS

9. Applicant's arguments regarding the 35 U.S.C. 102 rejection of claims 1, 4 and 13 presented on pages 5-9 of Amdt. E have been fully considered but are not persuasive. Applicant argues that the objectives of Hekal and Applicant are different, but Hekal teaches the structural and compositional limitations of the package recited in Applicant's claim 1, and therefore anticipates Applicant's claim 1. Note that Applicant's statement of what is claimed in claim 1 in the sentence bridging pages 6 and 7 of Amdt. E is not identical to that which is recited in the last four lines of claim 1.

Applicant misrepresents the position of the Office established on page 6 of the Office Action mailed August 5, 2003 (Paper 12) in the second full paragraph of page 7 of Amdt. E. Lines 3-13 of page 6 of Paper 12 establish that the plasticizers or additional resins taught by Hekal are taken by the Office to be the "active ingredients" claimed in claim 4 in the Amendment filed March 31, 2003. The statement in lines 17-21 of page 6 of Paper 12 does not

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state that the amine absorption amount of a film of Hekal with amine adsorbing ingredient and of a film of Hekal without amine adsorbing ingredient over a 72 hour period are necessarily the same. Claim 4 of the Amendment filed March 31, 2003 did not require that the "active ingredients" be "amine adsorbing" ingredients, while claim 4 of the Amendment filed January 8, 2004 essentially required that "active ingredients" be "amine adsorbing" ingredients. The statement in lines 17-21 of page 6 of Paper 12 therefore clearly no longer applies to claim 4 as the language presently stands.

On page 8 of Amdt. E, Applicant states that "the adsorbent film layer [of Hekal, supposedly of Example 1] containing active amine adsorber after only 4 hours adsorbed ALL of the amine", but there is no comparison with the film layer without zeolite, so Applicant's argument that Hekal teaches that the zeolite does not slow the amine adsorption rate is unsupported.

10. Applicant's arguments regarding the 35 U.S.C. 103 rejections of record presented on pages 9-10 of Amdt. E have been fully considered but are not persuasive. Applicant's sole argument presented in Amdt. E with regard to these rejections is that Examiner's position is that the package of Hekal "necessarily performs the function" claimed in claim 1. Examiner maintains the position that the package of Hekal necessarily performs the function claimed in claim 1 since Hekal teaches the structural and compositional limitations of the package recited in Applicant's claim 1.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-

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1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

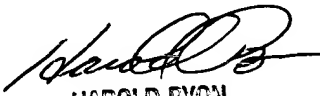
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh

03/14/05

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
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3/14/05